

REMARKS

Entry of the above amendments and reconsideration and withdrawal of the rejection are respectfully requested.

Applicant would like to thank the Examiner for indicating that claims 15-17 and 20-41 are directed to subject matter that would be allowable if rewritten in independent form.

The rejection of claims 1-14, 18, 19, and 42-44 under 35 USC 103(a) as being unpatentable over the combination of Sau ('772) in view of Bolich et al ('609) is traversed. Since claims 37 and 38 have been indicated as being directed to allowable subject matter, for the sake of expediting the prosecution of this application, claim 37 has been incorporated into claims 1 and 44. Claims 33-36 and 38-41 have been amended and new claim 45 has been added in order to conform to the indicated allowable subject matter. Since all of the claims now reflect the indicated allowable subject matter, either directly or dependently, all of the claims are now in condition for allowance.

Notwithstanding, for the record, it must be reiterated that applicant's invention is directed to a personal care composition of a vehicular system comprising a non-associative hydrophobically modified, nonionic, water-soluble polysaccharide that has a hydrophobe moiety of 3-7 carbons and at least one other active personal care ingredient.

The combination of Sau in view of Bolich does not disclose the instant invention. At best, this combination discloses a hair care product that uses an associative thickener in the vehicular system of this product. The thickener disclosed in both the Sau patent and the Bolich patent is a hydrophobically modified, nonionic, water-soluble polymer which comprises a water-soluble polymer backbone and hydrophobic groups that are long chain alkyl radicals of 8-22 carbons, preferably 10-22, with the most preferred being 16 carbons. It must be reiterated that both the Sau and Bolich patents are disclosing and using associative thickeners because of the long chain alkyl groups while the instant invention is not and can never be an associative thickener. Associative thickeners have different properties than the instant invention. Again, it must be reiterated that the Sau patent is enabling only for

the use in latex paint. There is no disclosure in Sau on how to make or use its water-soluble cellulose ether polymer in personal care composition. There simply is no disclosure in this reference or working example on how to make cosmetics and/or shampoos. In lines 8-12 of column 10 of Sau, there is an empty disclosure without apprising a personal skill in the art how to practice the invention regarding the use of these thickeners in cosmetics and shampoos. The entire content and spirit of the Sau invention is directed to the use in paints or coating compositions. There simply is no disclosure of the active personal care ingredient as defined in the instant invention for the use in the Sau reference. Hence, the Sau reference clearly does not anticipate the instant invention.

The Examiner using the Bolich et al reference to cure the defects in the Sau patent. The Examiner is using Bolich to disclose hair care compositions using vehicular systems having hydrophobically modified, nonionic, water-soluble polymers wherein the substitution on the hydrophobically modified polymer is a long chain alkyl radical having 8-22 carbons.

It is submitted that this combination of Sau in view of Bolich et al fails to read on the instant invention because both references in this combination disclose associative polymers that do not come within the scope of the instant invention. The polymers of the instant invention have short chain hydrophobes and are non-associative. Because these polymers are non-associative thickeners, they provide better salt-tolerant properties. Salt is commonly used in personal care products, such as in shampoos, conditioners, and skin care products. Hence, a non-associative thickener will provide a product with better stability than an associative thickener. Moreover, associative thickeners can make personal care products' rheology unpredictable in the presence of surfactants (e.g., sodium lauryl sulfates which are commonly used in personal care products). For example, in some instances an associative thickener will make the personal care product gel instead of being fluid as needed in the present invention.

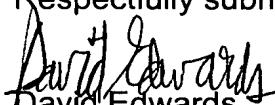
It is further submitted that the Bolich reference enables a person having an ordinary skill in the art only to prepare hair care compositions using a hydrophobically modified polymer that has C₁₆ moiety. All of the work Examples in this entire patent teach the use of a Natrosol Plus® CS Grade polymer which is a hydrophobically modified hydroxyethylcellulose having a hydrophobe of 16 carbons.

As stated above, the instant invention uses moieties having only 3-7 carbons which makes them non-associative. Another distinguishing feature of the instant invention over this Bolich patent is that the Bolich patent's formulations must be substantially free of water-soluble surfactants (see column 14, lines 41-43). Contrary to this teaching, the instant invention can use anionic, nonionic, cationic, zwitterionic or amphoteric type of surfactants that can be either insoluble or soluble. The Bolich patent also discloses that his cosmetic compositions must also be substantially free of fatty alcohol materials because these materials are undesirable because they tend to deposit on the hair and leave the hair feeling dirty after use. See column 14, lines 64-68 and column 15, lines 1-7. The instant invention does not have any of these restrictions on the use of different materials.

In summary, it must be reiterated that this combination of references, Sau in view of Bolich et al, would produce only a hair care product that uses a vehicular system that has an associative thickener wherein the hydrophobically modified polymer would have a moiety of 8-22 carbon atoms. In contrast, the instant invention would have a moiety in its hydrophobically modified polymer of only 3-7 carbons.

Hence, it would not be obvious to a person having an ordinary skill in the art armed with the Sau and Bolich et al references to make the instant personal care composition in view of the arguments set forth above.

For the reasons set forth above it is submitted that the instant application is now in condition for allowance and prompt notification thereof is respectfully requested.

Respectfully submitted,

David Edwards
Reg. No. 27,293

Hercules Incorporated
Intellectual Property Section
1313 North Market Street
Wilmington, DE 19894-0001
(302) 594-6974
December 18, 2003